

**MINUTES OF THE
AUBURN CITY PLANNING COMMISSION MEETING
FEBRUARY 5, 2008**

The regular session of the Auburn City Planning Commission was called to order on February 5, 2008 at 6:11 p.m. by Chairman Smith in the Council Chambers, 1225 Lincoln Way, Auburn, California.

COMMISSIONERS PRESENT: Merz, Spokely, Worthington, Chrm. Smith

COMMISSIONERS ABSENT: Thompson

STAFF PRESENT: Wilfred Wong, Community Development Director; Reg Murray, Senior Planner; Sue Fraizer, Administrative Assistant

ITEM I: CALL TO ORDER

ITEM II: APPROVAL OF MINUTES

The minutes of the January 15, 2008 meeting were approved as modified by changing the date of adjournment to Wednesday, January 16, 2008 at 12:45 a.m.

ITEM III: PUBLIC COMMENT

None.

ITEM IV: PUBLIC HEARING ITEMS

- A. Variance - 12510 Floradale Lane (Hayes Setback Variance) - Files #VA 08-1.** The applicant requests a Variance for a 15 foot rear yard setback in- lieu of the 25 foot required rear yard setback in the Single Family Residential (R-1) Zone.

Director Wong gave the staff report. This is an unfortunate situation in which a building permit was issued in error by the building official. For the last ten days staff has had several discussions with the applicant. Staff has also met with a neighbor, Tammy Forrest at 12595 Crimson Court who is opposed to the addition, to explain the process, what happened and the possible outcomes. A letter from Don Brennan, Ms. Forrest's husband was included in the staff report.

Director Wong stated that he has consulted with the City Attorney and the City is not liable when staff makes an error. The worst case scenario for the applicant is that the Commission can deny the

variance, and on appeal the City Council can deny the variance and the applicant would be required to remove a portion of the building, submit new plans and meet the 25 foot rear yard setback. The best case scenario is that the variance is approved and the applicant proceeds with the completion of his addition.

Director Wong suggested to the applicant that he talk to his neighbors and obtain support of the variance, particularly the neighboring properties abutting his property. The applicant was not led to believe that he would be given approval of the variance. In meetings with Tammy Forrest, the process was explained to her and her representative. She understands the 10-day minimum notice period, why the applicant was allowed to proceed in the rain to weatherize the addition and that any further construction by the applicant is at his own risk.

The applicant has support of 15 surrounding property owners.

Director Wong reviewed further details about the proximity of this project to the neighboring properties. The minimum side yard setback is 7.5 feet for a two story building, and the applicant's addition is 16 feet on the side yard setback. Staff measured the distance from the corner of the applicant's addition and Ms. Forrest's property line which is approximately 47 feet. The southeast corner of 12510 Floradale Lane is approximately 27 feet from the northwest corner of 12595 Crimson Court.

Comm. Merz asked if the plan had been submitted with a 25 foot rear yard setback if there would have been any reason for the Planning Commission to review this project.

Director Wong replied that the only reason the Commission is hearing this application is because of the setback issue.

Comm. Spokely asked for clarification about which property line is the side yard and which property line is the rear yard, and Director Wong clarified this.

Comm. Worthington pointed out that screening can be done to help alleviate the feeling of invasion of privacy between neighbors.

The public hearing was opened.

The applicant, Jeffrey Hayes of 12510 Floradale Lane submitted photos to the Commission which show the view from the windows of the new addition toward the Forrest/Brennan home, as well as a response letter to Mr. Brennan's letter. He desires to work out any issues with his neighbors so that he can proceed with the addition.

Comm. Worthington asked Mr. Hayes if he intends to keep the privacy fence on the property line.

Mr. Hayes replied that they do.

Comm. Worthington asked if they are willing to do some planting to assist with privacy between the properties.

Mr. Hayes said that they do intend to install plants.

Comm. Spokely asked if any of the oak trees behind the structure will be removed in the build-up process.

Mr. Hayes replied that the trees are not on his property.

Larry Armstrong of 9117 Quail Lake Court in Loomis is the owner of 1101 Oakridge Way, a new subdivision project across the street from the applicant. He has no problem with this variance.

Tammy Forrest of 12595 Crimson Court in Auburn submitted a letter to the Commission. She read the letter, which expresses her concern with how this application was handled by city staff. She stated that in her meeting on February 4, 2008 with Director Wong, she presented a list of recommendations for modifications that would help alleviate her lack of privacy. She and her husband object to the granting of the variance. They discussed a resolution with the applicant, and he is not interested in working with them.

Comm. Spokely said that he visited the site, and the visibility through the trees was greatly obscured. The photos presented by the applicant also show that visibility is greatly obscured. He asked Ms. Forrest if she is stating that the applicant can see into her bathroom from their bathroom window.

Ms. Forrest stated that two sides of the structure face their residence and the structure invades their privacy in their back yard, as well as a loss of privacy into the windows on the rear of their home.

Comm. Spokely asked if Ms. Forrest would like to share with the Commission the list of recommendations for modifications that were disregarded by the applicant.

Ms. Forrest stated that they outlined their recommendations and submitted them to Mr. Wong.

Comm. Merz asked that staff respond to Ms. Forrest's comments.

Director Wong stated that these items were reviewed with Ms. Forrest on February 4, 2008. When staff received the complaint, Ms. Forrest was immediately contacted by Planner Lowe, and staff held a meeting with Ms. Forrest. After the stop work order issued by the Building Official, the Hayes were told that they could weatherize the structure to protect it from the rain, and that continuation of construction was at their own risk. It is not uncommon for staff to produce the labels for the mailing of the notice. Staff has tried to work with the applicant, as well as Ms. Forrest. The applicant came in to sign the Variance application and pay the fee. Ms. Forrest presented a list of conditions at the meeting with staff on February 4, however many of the items listed are inappropriate because they are improvements to Ms. Forrest's property. Mr. Wong advised Ms. Forrest that the City cannot enforce these types of improvements for any project. Staff had hoped that the applicant and Ms. Forrest could come to an agreement about the requested improvements.

Chrm. Smith stated that he visited the site and walked the property and saw no invasion of privacy to Ms. Forrest's property. There are thick trees blocking the view into their yard.

Comm. Worthington asked staff if all procedures were followed.

Director Wong stated that procedures were followed, and if he thought procedure had not been followed he would have pulled this item from the agenda. Director Wong said he advised Ms. Forrest of this at his meeting with her on February 4, 2008.

Ms. Forrest returned to the podium. She objected to the characterization that the list of suggestions she submitted were improvements to her home. She wished to review the items with the Commission. The list is as follows:

- Request a height variance for the fence so that a 10' fence could be installed in the back & side yards of the house
- Request that the rear fence be replaced along the property line by the City
- Request that trees be planted by the City along the rear and side fence line of the applicant's property that run parallel to Oakridge and the Floradale property. They specified the areas they believe that would privatize the part of the home that rises above their back yard
- Request that trees be planted by the City along the rear of of their property. They asked for either three mature evergreen trees or twenty feet of live bamboo fencing
- Request removal or glazing of the applicant's bathroom window
- Request that the house be painted a neutral color

- Request for window coverings for two of their windows due to the height of the structure
- Request for reimbursement for screening in their yard while the trees are maturing
- Request liability statement regarding converting the addition into rental property or operating a business out of their home

These requests were reviewed with Mr. Wong. He helped them to understand that there would not be a liability statement regarding converting the addition to rental property because by law any property owner can do that. Mr. Wong suggested that they work with the neighbor to satisfy their other requests. The neighbor did not support any of their requests.

Chrm. Smith asked for verification of the dates of the issuance of the permit, and the time that Ms. Forrest noticed the structure.

Staff reviewed the dates with the Commission.

Mr. Hayes returned to the podium and stated that he is encroaching on the setback by about nine feet. If it were further back, it would still be the same height, and he could be closer to the side yard and even closer to Ms. Forrest's property. He hopes for a resolution.

Comm. Merz stated that he does not see a basis to deny the variance.

Comm. Spokely said that the situation is unfortunate. This was an inadvertent error. He has a hard time seeing this as an invasion of privacy. He asked the applicant if the bathroom window facing Ms. Forrest's home will be obscured.

Mr. Hayes replied that it will be.

Comm. Worthington stated that there should be a shared responsibility between the neighbors to live next to each other, which can be accomplished by planting on both sides of the fence. She doesn't feel that asking the applicant to paint his structure a certain color is a neighborly solution.

Comm. Worthington **MOVED** to:

Adopt Resolution No. 08-02 to approve a variance application to allow a 15 foot rear yard setback in lieu of the 25 foot required rear yard setback in the Single Family Residential (R-1) Zone.

Comm. Spokely **SECONDED.**

AYES: Merz, Spokely, Worthington, Chrm. Smith
NOES: None
ABSTAIN: None
ABSENT: Thompson

The motion was approved.

ITEM V: COMMISSION BUSINESS

A. Discussion of Planning Commission priorities list.

The Commissioners discussed the priorities list provided in the agenda packet. It was determined that several items should be deleted from the list. Items #5, 6, 7, 8 & 17 are the top five priority items.

Comm. Worthington **MOVED** to:

Direct Staff to prepare a consensus memo to the Auburn City Council which outlines the recommendations of the Auburn Planning Commission regarding priority planning issues.

Comm. Merz **SECONDED.**

AYES: Merz, Spokely, Worthington, Chrm. Smith
NOES: None
ABSTAIN: None
ABSENT: Thompson

The motion was approved.

B. Housing Element Implementation

Planner Murray reviewed the annual Housing Element Progress report.

C. Updated General Plan implementation work plan and checklist

Planner Murray reviewed the updated copy of the General Plan implementation work plan and checklist.

- D. Auburn Land Use Plans and Implementation with SACOG
Blueprint comparison

Planner Murray reviewed the annual comparison of city land-use plans and implementation of the land use goals as set out in SACOG's (Sacramento Council of Governments) *Blueprint*.

ITEM VI: COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS

- A. City Council Meetings
The Auburn Bluffs appeal will be heard on February 25, 2008.
- B. Future Planning Commission Meetings
A meeting is planned for February 19, 2008.
- C. Reports
None.

ITEM VII: PLANNING COMMISSION REPORTS

Comm. Worthington reported that she attended a Streetscape meeting and the plans are going well.

ITEM VIII: FUTURE PLANNING COMMISSION AGENDA ITEMS

None.

ITEM IX: ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Susan Fraizer, Administrative Assistant